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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,062	10/12/2001	Paula Mary Sosalla	KCC 4777	1782

321 7590 04/03/2003

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

GRAYSON, ANGELA J

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 04/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/977,062

Applicant(s)

SOSALLA ET AL.

Examiner

Angela J. Grayson, Esq.

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Application filed on 10-12-2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation in line 4 "so as not to obscure the visibility of the element". Examiner is unsure what this recitation adds to the claim, therefore making the claim language in need of clarification. Correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent NO.6,075,178 to La Wilhelm.

As best understood as to claim 1, La Wilhelm discloses a disposable absorbent article having an area which is visible when the article is worn (Abstract) a color gradation in said area providing a coloration which varies in intensity over the area from a higher intensity of color to a lower intensity of color (col. 18 lines 47-52), and a visible

element in said area at a location where the coloration is of lower intensity or absent (Abstract lines 19-31).

As to claims 2, 3, 12, and 13, La Wilhelm discloses a disposable article wherein the visible element is a graphic or a registration mark (col. 17 lines 14-29 disclosing the indication section may be a pattern or an embossment); wherein said article is a pant having a crotch section, and wherein the registration mark is located on the crotch region (col. 4 lines 37-51). As to the language in claim 12 "for use in positioning said graphic on the article" it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

As to claim 4, La Wilhelm discloses a disposable article wherein the visible element is a wetness indicator. (col. 18 lines 60-67).

As to claims 6 and 16, La Wilhelm discloses a disposable article wherein the wetness indicator comprises an active graphic. (La Wilhelm discloses an active graphic in that the graphic becomes "active" when color changes resulting in wetness or dryness of the indicator associated therewith col. 15 lines 40-55).

As to claim 7, La Wilhelm discloses a disposable article wherein the article is a pant having a front region, a back region, and a crotch region (Figure 1) said wetness indicator being on a portion of the crotch portion which is substantially free of color (col. 19 lines 1-4; col. 18 lines 47-52).

As to claims 8 and 9, La Wilhelm discloses a disposable article wherein the coloration changes from higher intensity to lower intensity generally in the direction of the crotch region; wherein the coloration changes from higher intensity to lower intensity generally in the direction of one or more sides of the pant. (col. 19 lines 1-3; col. 18 lines 47-52).

As to claims 10 and 11, La Wilhelm discloses a disposable article wherein the color gradation involves only one color; wherein the color gradation involves a combination of different colors. (col. 18 lines 47-59).

As to claim 14, La Wilhelm discloses a disposable article comprising a training pant (col. 3 lines 57 disclosing training pants) having an outer cover with an interior surface and an opposite exterior surface, and an absorbent material disposed on the interior surface, said pant further having front, back regions which define a waist region, and crotch region extending between the front and back region, and crotch regions, said visible element comprising an active graphic on said crotch for indicating the wetness of the section. (Abstract; Figure 1; La Wilhelm discloses an active graphic in that the graphic becomes "active" when color changes resulting from wetness or dryness of the indicator associated therewith col. 15 lines 40-55).

As to claim 15, La Wilhelm discloses a disposable absorbent pant comprising an outer cover with an interior surface and an opposite exterior surface, an absorbent material disposed on the interior surface of the cover, said pant further having front and back regions which define a waist region, a crotch region extending between the front and back regions, a color gradation on an area of the article which is visible when the

article is worn, said color gradation providing a coloration which varies from a higher intensity of color in the vicinity of the waist region to a lower intensity of color toward the crotch region, and a wetness indicator in said crotch region at a location where the coloration is of lower intensity or absent so as not to obscure an indication of wetness by the wetness indicator.(Abstract; Figure 1; col. 19 lines 1-3; col. 18 lines 47-52;

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent No. 4,328,181 and 4,931,051 are disclosed as providing wetness indication resulting in color change.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela J. Grayson, Esq. whose telephone number is 703-305-1806. The examiner can normally be reached on Monday-Thursday from 9:30 am to 7:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 703-305-1025. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0873.

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Angela J. Grayson
March 19, 2003 


A. Vanatta
Primary Examiner